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HEARING ON THE  
DRAFT ENVIRONMENTAL IMPACT STATEMENT  
FOR THE CONVEYANCE AND TRANSFER OF  
CERTAIN LAND TRACTS ADMINISTERED BY  
THE DEPARTMENT OF ENERGY AND  
LOCATED AT LOS ALAMOS NATIONAL LABORATORY,  
LOS ALAMOS AND SANTA FE COUNTIES, NEW MEXICO

March 24, 1999  
Pojoaque, New Mexico  
2:00 p.m.

REPORTED BY: BARBARA HARRIS, CM/RPR NM CCR #114  
American Reporting  
23201 Twelfth Street, Northwest  
Albuquerque, New Mexico 87102

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Final CT EIS

1

A P P E A R A N C E S

2

For the DOE:

3

MR. DENNIS MARTINEZ

4

MS. ELIZABETH WITHERS

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Moderator:

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MR. STEVE WILKES

7

Interpreter:

8

Mr. Arturo Sandoval

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1 MR. MARTINEZ: Good afternoon, everyone. I  
2 think we're ready to start. We have microphones, but the  
3 room is small enough I think you can hear me. If you  
4 can't hear me, then I'll use the mikes.

5 Thank you for coming. We are here this  
6 afternoon to talk about the Draft Environmental Impact  
7 Statement that the Department of Energy has prepared and  
8 to solicit your comments.

9 Before we get into the details on that report, I  
10 would like to kind of, for some people that haven't been  
11 familiar with the process, go over what we're doing, why  
12 we're doing it, and what's involved in it, and then we  
13 will get into the Environmental Impact Statement and we  
14 will record your comments.

15 First of all -- I'll try and stand to the side  
16 -- we're doing this because the Public Law 105-119 was  
17 passed in early 1997 -- late 1997, and it required the  
18 Secretary of Energy to convey without consideration to Los  
19 Alamos County and to San Ildefonso Pueblo fee simple title  
20 to identified parcels of land that met certain criteria in  
21 that public Law. And basically the criteria centered  
22 around the parcels not being needed for the national  
23 security mission and the fact that the parcels had to be  
24 usable by the recipients for historical, cultural,  
25 environmental preservation, economic diversification or

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1 community self-sufficiency purposes.

2 So based on that, this is what generated this  
3 whole activity. This is not a departmental initiative.  
4 It was driven by a public Law.

5 The schedule that was laid out in the public Law  
6 was basically this. And I apologize if you can't read  
7 this, but we've got handouts of this available up front.  
8 Basically, as I said, the public law was passed in  
9 November '97. The Department was tasked to identify the  
10 parcels that met the criteria in that public law, and to  
11 submit a report to congress which identified that, and we  
12 did that in February 1998.

13 That report identified ten parcels. You are  
14 only seeing nine here because there are two very small  
15 parcels included right here, and so there is actually  
16 ten. The total acreage is 4646 acres that's involved in  
17 this. And that's what the parcels are.

18 The next step the Department was required to do  
19 under this law was to complete a title search on suitable  
20 parcels, on these parcels. We contracted with the U.S.  
21 Army Corps of Engineers who had done a lot of work in Los  
22 Alamos in past history and had a lot of expertise in that  
23 area. They completed their title search, and the  
24 Secretary of Energy submitted that title report to  
25 congress in November. Actually I think it went in January

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1 but it was due in November.

2 The next requirements on the Department are to  
3 prepare an Environmental Impact Statement, which is why  
4 we're here today, and an Environmental Restoration Report,  
5 and these two reports have got to be completed and sent to  
6 congress in August of '99. There are some intermediate  
7 steps in here, and one of them is why we're here today,  
8 public hearings. So those two reports are a requirement.

9 We are right now in a pre-decisional stage.  
10 Until we have the results of those reports, we don't know  
11 with any certainty that -- or we have not determined that  
12 any of these parcels would go or only parts of parcels  
13 would be transferred, so we have not made a decision yet  
14 on that piece of it.

15 The next step, after these reports are completed  
16 in August of '99, they are sent to congress. We would  
17 submit to congress a plan -- I'm sorry, I skipped a step.  
18 Los Alamos County and San Ildefonso Pueblo have a  
19 responsibility to meet and to come to agreement on how  
20 these parcels would be split among them. The Department  
21 is not a part of that process. The public law makes it  
22 clear that that is between those two parties only.

23 The next thing is the Department has to prepare  
24 a conveyance and transfer plan. Once we know the results  
25 of the Environmental Impact Statement, the Environmental

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1 Restoration Report, and we know how the County and San  
2 Ildefonso plan to split the parcels, we would submit a  
3 plan to congress that says here is the time frame we are  
4 looking at, here is what has to be done, here is the money  
5 involved in transferring these parcels.

6 After that, there are two remaining steps. The  
7 first opportunity that the Department, or requirement,  
8 first deadline for the Department to transfer parcels, is  
9 in November of 2000. Any parcels that are ready to go  
10 that have been cleaned up and all the necessary surveying  
11 and everything has been done, those first parcels have to  
12 be transferred by November 2000.

13 And then at that point it becomes a long-term  
14 project. We have until November of 2007 to complete any  
15 environmental restoration or environmental remediation  
16 that is required to get those parcels ready to transfer.

17 If San Ildefonso and the County do not agree on  
18 how to allocate the parcels, then the parcels will not be  
19 transferred. If any of the parcels cannot be restored or  
20 remediated by the deadline, then they will not be  
21 transferred. And so that's kind of where we are, why  
22 we're doing what we're doing.

23 And I guess having said that, I would like to  
24 introduce Elizabeth Withers. She will talk to you about  
25 the Environmental Impact Statement.

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1 I would like to comment that in the next room we  
2 have a group that is talking about the Environmental  
3 Restoration Report, so if you would like to know more  
4 about what is on the properties, what we know so far about  
5 them, that would be a good place to get some of that  
6 information.

7 Thank you.

8 MS. WITHERS: As Dennis has already pointed  
9 out, under Public Law 105-119 the Department of Energy has  
10 an obligation to consider the environmental impact that  
11 could be associated for the conveyance and transfer of  
12 these land tracts pursuant to the National and  
13 Environmental Policy Act.

14 In the winter of 1998 the Department determined  
15 that an Environmental Impact Statement would be the  
16 appropriate level of analysis and documentation to meet  
17 that regulatory compliance requirement. We started the  
18 Environmental Impact Statement process with a Notice of  
19 Intent to prepare such a document that was issued in the  
20 Federal Register in May of 1998.

21 At that point we also held a scoping period  
22 where we asked members of the public to help us scope the  
23 document to give us information on what they thought were  
24 important or special environmental concerns in the area,  
25 to help us figure out which alternatives that we should

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1 analyze and other similar information.

2 After the scoping period was over, then we took  
3 that information and we used it to then go ahead and do  
4 our analysis and write the document. We worked over the  
5 summer, fall, and winter with our cooperating agencies,  
6 which for this document include the County of Los Alamos,  
7 San Ildefonso Pueblo, the Bureau of Land Management, the  
8 Bureau of Indian Affairs, the Bandelier National Monument,  
9 and the U.S. Forest Service and neighboring federal and  
10 other landowners, or managers.

11 After that had taken place and we had worked the  
12 document, we were then able to publish the document or  
13 issue the document this spring. Last month in February we  
14 actually made the document available to the public. We  
15 issued a general Notice of Availability for the document  
16 in the Federal Register on February 26. At the same time  
17 we mailed out several hundred copies of the document to  
18 individuals, organizations, and other stakeholders that  
19 had already identified themselves as being interested in  
20 reviewing the document.

21 The document has been made available on the  
22 Worldwide Web. Also copies are available outside. If you  
23 all haven't picked one up, please do so. There is also a  
24 summary out there if you would rather have that, or both.  
25 Please help yourselves.

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1           Additionally, if anyone wants to give me a call  
2 or write me or whatever, I can get the copy of the  
3 document out to you.  
4           So in a nutshell, that rather brings us to where  
5 we are today. I'm here and the rest of the folks with DOE  
6 are here to accept comments from the public on this Draft  
7 Environmental Impact Statement. What we would like to get  
8 from you is what data points we've missed. If we've  
9 gotten something wrong let us know. If we need more  
10 analysis, please tell us. Any comments that you would  
11 like to offer to us will be appreciated.  
12          There are a number of different ways that we can  
13 take comments. Today we can take comments orally. We do  
14 have a court reporter here that is taking everything down  
15 verbatim, and they will furnish us with a transcript so  
16 that we can use that.  
17          Additionally, we have comment forms out on the  
18 table, if you would like to give us a written comment. We  
19 have a box out there that you can put it in or you can  
20 mail it into us later. We'll also take letters, of  
21 course, mailed to the Los Alamos Area Office up at Los  
22 Alamos. And also I've got an e-mail address. Let's see.  
23 The e-mail address that we have set up is  
24 cteis@doeal.gov. And also we have a 1-800 number you can  
25 call in if you would like, 1-800-791-2280. We would be

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1 happy to take comments any which way that you can get it  
2 to us.  
3 All comments, whether given orally or written,  
4 are given the same weight. There is nothing special about  
5 one way over the other. We are accepting comments during  
6 our comment period, which started on the 26th of February,  
7 and which will extend until April 12th. It's a 45-day  
8 comment period. Any comment received until April 12th  
9 will be given our full consideration, and comments that we  
10 get once are given as much importance and weight and  
11 consideration as those that we get multiple times.  
12 Comments that I receive after the 12th, I will  
13 try to incorporate them as much as I can, but we're on a  
14 pretty tight schedule because we are going to try to  
15 publish the Final Environmental Impact Statement in  
16 August.  
17 Also we will be including a comment response  
18 document that will cross walk the comments and how we  
19 incorporated them into making changes in the document, or  
20 offer an explanation as to why we perhaps didn't. That  
21 rather brings us up to where we are, where we're going  
22 into the future.  
23 One further step is the Record of Decision that  
24 comes out of all of this. As Dennis said, we will take  
25 the comment -- the Environmental Impact Statement

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1 information, pull it together with the Environmental  
2 Restoration Report information, and produce a combined  
3 data report that will go to congress in August.

4 After that there are a number of other steps  
5 that Dennis rather outlined, that will bring us down to  
6 the point in the winter of the year 2000 to submit a  
7 plan. And probably at the same time that that plan is  
8 submitted, or perhaps as part of it, we haven't quite  
9 decided yet, we will issue at least one Record of  
10 Decision.

11 Since, as Dennis stated, though, this could  
12 become a long-term event, there could be other Records of  
13 Decision that come out over time.

14 That, in a nutshell, is kind of where we're at  
15 and where we're going. I hope that you will give us your  
16 comments and let us know what you think of the draft  
17 documents. And with that, I'll go ahead, and I think  
18 there is --

19 MR. MARTINEZ: Excuse me, before we start,  
20 is that disturbing to anybody but me, the audio? Is it  
21 too loud?

22 (Affirmative response.)

23 MR. MARTINEZ: Would you ask them to turn  
24 it down at the other side of the room? Thank you. And  
25 this is likely to be a long, warm afternoon. If you feel

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1 like walking around or standing up, feel free to do so.  
2 Nobody will be offended. If somebody wants to open the  
3 door if it's getting warm in here, feel free. Make  
4 yourself comfortable.

5 We want everybody to participate and be  
6 comfortable, and if there is anything else we can do, let  
7 us know.

8 MS. WITHERS: I tell you what, since we  
9 don't have too many people here, maybe we could open this  
10 meeting up to maybe a 30 minute or so question and answer  
11 period where we would take questions ad hoc from the  
12 audience here and try our best to answer them, and then  
13 maybe we could go into the comments from folks who have  
14 signed up, and then perhaps take ad hoc comments from the  
15 audience. Is that acceptable to you all? Okay. Why  
16 don't we go ahead and start this.

17 I will ask Steve Wilkes, who is our moderator,  
18 to recognize folks, if you don't mind. Thank you.

19 THE MODERATOR: Let me make a couple of  
20 comments before we do. As Elizabeth said, I'm Steve  
21 Wilkes. I'm the moderator. I have been asked to tell you  
22 I am independently employed. I am not an employee of any  
23 government agency, but was asked to do this. The folks  
24 asked me to make sure that was clear.

25 As Elizabeth stated, speaker sign-ups are in the

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1 lobby, but with this size group we may not even need that,  
2 it looks like.  
3 Barbara Harris is your court reporter. She  
4 would request that you state your name first before giving  
5 your comment, if you are comfortable with that. If you're  
6 not, you can give your comment without stating your name.  
7 But it helps her keep a complete record.  
8 Tonemo un interprete, Arturo Sandoval, in the  
9 back here, so if you need those services, please  
10 indicate.  
11 Cookies and beverages, as you heard, are in the  
12 final restoration room. That's not to get you out of  
13 here. It's just to make sure there is enough room in  
14 here.  
15 The fact sheets have been mentioned. The draft  
16 EIS, the summary is also available. Please, I have been  
17 requested to tell you, please do visit the environmental  
18 restoration informational open house. It's not a hearing,  
19 it's an open house next door. It's more of a conversation  
20 with folks giving questions and answers, very informal  
21 setting. I want to clarify, the formal comments for the  
22 Draft Environmental Impact Statement are in this room  
23 only. If you go in there and expect to make a comment on  
24 the Environmental Impact Statement, you are just one  
25 partition away from being in the right room, so just come

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1 back in here and make the statement.

2 And the noise wall is porous, so if you are in  
3 there having a conversation, just remember we're in here,  
4 so you can keep your voice down. Please at least maybe  
5 have the conversation toward the other side. We didn't  
6 realize it would be quite that porous.

7 The purpose of this meeting is to get input to  
8 the Draft Environmental Impact Statement. Those of you  
9 who are not familiar with it, you will hear people say  
10 EIS. We have been coaching everybody to say Environmental  
11 Impact Statement, for those people who don't deal with it  
12 on a regular basis, and ER is Environmental Restoration.

13 The desired outcomes, there are really three for  
14 this afternoon. One we hope to accomplish, that is to  
15 bring people up to speed on the background. What is the  
16 context, how did we get here, why this meeting, what came  
17 before, what's coming after. That was one of the desired  
18 outcomes, that you could walk out of here with at least a  
19 basic understanding.

20 Second is to get the complete, accurate record  
21 of the public comments on the Draft Environmental Impact  
22 Statement.

23 And the third was that each one of you could  
24 walk out of here and say everybody got heard, we all had a  
25 chance to get our comment in, it was not cut off, it was

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1 heard, it was acknowledged, and so on. So those are the  
2 three desired outcomes.

3 One of the boundaries for giving comments is  
4 this is to deal with, and I'm holding up, this is the  
5 summary, I believe, but this is to deal with the Draft  
6 Environmental Impact Statement. If you have comments on  
7 another topic, you can make them, I suppose, here, but  
8 they're not going to go into this, is what I've heard.  
9 This is about this item, Environmental Impact Statement.  
10 There may be related -- there may be issues that somehow  
11 are around this, but if they are not directly related to  
12 this they won't be part of the record.

13 A SPEAKER: This is the summary, Steve.

14 THE MODERATOR: This is the summary. I was  
15 holding up something there. Okay.

16 A SPEAKER: That's another piece of  
17 information. The EIS looks the same but bigger.

18 THE MODERATOR: They just get thicker from  
19 this. Let's see. And with that, we can go right into  
20 this. Elizabeth, let me clarify, whether people have  
21 questions or whether they have comments, I'm still going  
22 to be taking down their basic points so we can make sure  
23 they get heard, as well as the court reporter, and as well  
24 as there may be others in the room who are taking down  
25 some notes to make sure they get heard.

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**Comment 31-01-03**

## Response:

The comment was addressed during the public hearing. The response is presented in the transcript on the left. In addition, this issue is discussed in more detail in General Issue 3, Basis for DOE's Decisions, in Chapter 2 of this appendix. The reader also is referred to the response to Comment 31-16-03 for further discussion of the No Action Alternative.

1 MS. WITHERS: Unless for some reason  
2 someone doesn't want something recorded, and then if you  
3 would let us know, then we will make accommodations.

4 THE MODERATOR: Let me be very honest with  
5 you: One of the reason I'm going to write some of the main  
6 words, not all the details, is to make sure you know you  
7 got heard, and so if someone else is sitting in the  
8 audience wanting to make a point it also reminds them that  
9 that point has already been made.

10 I don't have a sign-up sheet here with me, but  
11 if we just want to do some questions and answers. Any  
12 questions about this Draft Environmental Impact  
13 Statement? Yes.

14 MR. SPINGLER: I'm Gordon Spingler. I  
15 represent the Sierra Club, the Pajarita group. I have  
16 several questions but will spread them out a little bit.

17 Given the law as it was written, is the no  
18 action a viable alternative?

19 MS. WITHERS: Given the law starts out by  
20 saying that the Department of Energy shall convey and  
21 shall transfer, as far as being able to meet the  
22 requirements under the law with a no action alternative,  
23 it does not.

24 MR. SPINGLER: I'm sorry, is the answer yes  
25 or no?

31-01-03

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Comment 31-02-06

Response:

The comment was addressed during the public hearing. The response is presented in the transcript on the left. In addition, this issue is discussed in more detail in General Issue 3, Basis for DOE’s Decisions, in Chapter 2 of this appendix.

1 MS. WITHERS: The answer is no. We would  
2 not be able to meet the requirements that we have  
3 established under the law by choosing a no action  
4 alternative.  
5 MR. SPINGLER: Could you choose a no action  
6 on one parcel and nine yes'es and one no?  
7 MS. WITHERS: We could possibly do that,  
8 because the law doesn't state specific tracts of land. It  
9 leaves the identification of the tracts up to the  
10 Department of Energy. And also there is a possibility  
11 that we could choose a portion of a tract that we have  
12 identified as being one that was potentially one to be  
13 considered for conveyance and transfer. So we have some  
14 discretion, but not very much under the law.  
15 THE MODERATOR: The answer you heard, what  
16 answer did you hear to your first question?  
17 MR. SPINGLER: I heard the answer is yes,  
18 partially.  
19 THE MODERATOR: And the second one is can  
20 we choose no action on one parcel and not on others, that  
21 was your question?  
22 MR. SPINGLER: Yes, and the answer was  
23 yes.  
24 THE MODERATOR: I just wanted to check.  
25 Any other questions?

31-01-03  
(Cont.)

31-02-06

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Comment 31-03-12

Response:

The comment was addressed during the public hearing. The response is presented in the transcript on the left.

31-03-12

1 MR. HOPKINS: I am John Hopkins. I have a  
2 question about the cultural preservation, and this is, if  
3 I understand this correctly, where the land is locked up  
4 with no access. It says the general public would not be  
5 able to use this land.  
6 MS. WITHERS: Right. One of the future  
7 recipients of this land identified their contemplated  
8 future use as being cultural preservation, and as they  
9 described what that meant to them, then they set the  
10 parameters that the property would be made off limits to  
11 the general public.  
12 MR. HOPKINS: Thank you.  
13 MS. WITHERS: I would just like to add if I  
14 could for a moment there, the Department of Energy is not  
15 going to be identifying the specific uses for these land.  
16 That will be strictly left up to the recipient party.  
17 MR. HOPKINS: Thank you.  
18 THE MODERATOR: Given the conversation next  
19 door, is there anyone here who can not hear? Because we  
20 can use the microphones. Would it help to have the  
21 microphones?  
22 A SPEAKER: I just want to comment on the  
23 noise back there. I'm a little bit hard of hearing.  
24 MS. WITHERS: Oh, that's better, isn't it?  
25 Fine. Great. Thank you.

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**Comment 31-04-12**

## Response:

The comment was addressed during the public hearing. The response is presented in the transcript on the left. In addition, this issue is discussed in more detail in General Issue 2, Deed Restrictions, in Chapter 2 of this appendix.

1 THE MODERATOR: Any other comments,  
2 questions? Yes.  
3 MR. SPINGLER: Sorry to monopolize it but I  
4 have several questions.  
5 THE MODERATOR: That's all right.  
6 MR. SPINGLER: Are there any restricted  
7 uses or strings when the land is transferred? In other  
8 words, let's just say a parcel was transferred to Los  
9 Alamos County. Can then Los Alamos County do whatever,  
10 within the law, whatever they please with a parcel? Does  
11 this process provide any strings, like --  
12 MR. MARTINEZ: It may, but we're not there  
13 yet. I think, you know, Los Alamos County and San  
14 Ildefonso Pueblo have indicated to us their potential  
15 future uses for these parcels, so the Environmental Impact  
16 Statement and the environmental restoration work,  
17 everything is going to be done based upon our being told  
18 that those two entities will use the land in the ways that  
19 they've told us.  
20 So I guess theoretically after we complete the  
21 process and turn it in to them, years down the road if  
22 they wanted to do something else with it, I perceive that  
23 possibly they would have some leeway there. There may be  
24 some areas that when the Department transfers the  
25 property, because of environmental restoration concerns,

31-04-12

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**Comment 31-05-15**

Response:

The comment was addressed during the public hearing. The response is presented in the transcript on the left.

1 levels, there may possibly be some restrictions or  
2 something that could happen, but at this point we don't  
3 have that. We are not at that point where we would know  
4 that.  
5 THE MODERATOR: Anyone else? Yes.  
6 MR. SPINGLER: I'm going to keep going if  
7 nobody raises their hand.  
8 THE MODERATOR: That's fine.  
9 MR. SPINGLER: The decision, you called it  
10 an ROS I think.  
11 MR. MARTINEZ: A ROD.  
12 MS. WITHERS: Record of Decision, ROD.  
13 MR. SPINGLER: An ROD, right. Who makes  
14 that?  
15 MS. WITHERS: That would be the Department  
16 of Energy that issues that, and it combines, not only the  
17 environmental impact information, but any other data  
18 points that the Department chooses to consider in the  
19 decision-making process, such as the environmental  
20 restoration piece of information, durations, cost, just  
21 about all sorts of different pieces of information that  
22 they pull together to make the decisions, and then they  
23 issue that in a formal Record of Decision.  
24 MR. SPINGLER: That didn't --  
25 THE MODERATOR: Go ahead.

31-04-12  
(Cont.)

31-05-15

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1 MR. SPINGLER: The question was who makes  
2 that decision.

3 MS. WITHERS: Specifically within the  
4 Department of Energy you mean?

5 MR. SPINGLER: Right.

6 MS. WITHERS: Who signs it?

7 MR. SPINGLER: Is there a group, one  
8 person.

9 MS. WITHERS: Recommendations go up to the,  
10 I believe, Secretary or Undersecretary in this case. I'm  
11 sorry, do one of you gentlemen know? Steve Ferguson is in  
12 the audience here from headquarters and perhaps he can  
13 address that question. Would you mind?

14 MR. FERGUSON: It varies from case to case  
15 on particular environmental impact statements. The  
16 program, lead program official can be authorized to sign  
17 the Record of Decision. In some cases the Secretary  
18 elects to make that decision directly. And it's  
19 technically possible, but there has been no decision made  
20 in this case, that it might be delegated below the  
21 principal program official. So the answer is there has  
22 been no decision made here.

23 MR. SPINGLER: Of who is going to make the  
24 decision.

25 THE MODERATOR: So the folks can be sure

31-05-15  
(Cont.)

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22

**Comment 31-06-19**

## Response:

The comment was addressed during the public hearing. The response is presented in the transcript on the left. The following discussion is to provide further clarification.

Because the timeframe over which the transfer and subsequent use of each of the tracts is not well known, the Draft CT EIS assumed that the transfer and any subsequent development occurred within the next 10 years (see Section 4.1.3 in Chapter 4 of the main report). In certain cases this assumption had the effect of compressing impacts or consequences that might be expected over a 20-year timeframe into a 10-year timeframe. In addition, the CT EIS strove to discuss only potential land uses and not identify the potential land uses with either of the potential recipients. These two factors resulted in some unclear discussion of the potential future of the Los Alamos Sportsman's Club. The appropriate sections of the Final CT EIS have been clarified to state that the Los Alamos Sportsman's Club could still be located at the current site for many years to come. The reader is referred to the responses to the comments presented with Document 20 in this appendix.

## Location of CT EIS revisions:

Chapter 5, Sections 5.3.1 and 5.3.4

31-05-15  
(Cont.)

31-06-19

1 they heard the answer, would you mind paraphrasing what  
 2 you heard is the answer to this?  
 3 MS. WITHERS: The bottom line answer is  
 4 that it can be all the way up from the senior program  
 5 manager to the Secretary, but no decision has been made  
 6 yet as to which specific person could be signing this  
 7 particular Record of Decision.  
 8 THE MODERATOR: Yes?  
 9 MR. STODDARD: I'm Steve Stoddard. I'm a  
 10 member of the Los Alamos Sportsmen's Club. And I am sort  
 11 of bewildered in that when we had the scoping meeting, I  
 12 had gone to the scoping meeting and entered a document  
 13 talking about the impact of the Los Alamos Sportsmen's  
 14 Club, how many people were involved, how important it was,  
 15 the fact that the County of Los Alamos, if this transfer  
 16 was made, would like to keep that property as recreation  
 17 property, and, indeed, that we would be part of the  
 18 residents of that recreation property.  
 19 Now, this document, and for that matter the big  
 20 EIS, seems to imply that the Sportsmen's Club has just  
 21 wandered off into the sunset. It just flatly says the  
 22 Sportsmen's Club is going to be gone so we are going to  
 23 have cultural area.  
 24 And I guess my question really is, is any  
 25 cognizance going to be given to anybody about what the

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23

1 County would like and what some of the citizens would  
2 like?

3 MS. WITHERS: Certainly the County was one  
4 of our cooperating agencies on this document and they  
5 supplied us with information, as did San Ildefonso Pueblo,  
6 as to their contemplated future uses. It's the assumption  
7 of the Department that any existing leases at the time  
8 that we convey or transfer the land would go with the  
9 property. So if the Sportsmen's Club was currently under  
10 lease, then that lease would go to the new owner, and then  
11 it would be up to them as to whether or not the  
12 Sportsmen's Club's lease was extended out after that  
13 point.

14 MR. STODDARD: Do I understand then, Mrs.  
15 Withers, that if a tract parcel is given to Los Alamos  
16 County and our lease goes to 2002, then we would continue  
17 the same usage we have with the County?

18 MS. WITHERS: It would be strictly up to  
19 the County as to whether or not it was extended.

20 MR. STODDARD: Up to the County. Thank  
21 you. That answers my question.

22 THE MODERATOR: And you asked specifically  
23 about the County. Did you mean to imply or any other  
24 interest would be considered other than the County or  
25 Pueblo?

31-06-19  
(Cont.)

**Pojoaque Public Hearing (Afternoon Session)**  
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24

1 MR. STODDARD: Not really.  
 2 THE MODERATOR: That's all I wanted to make  
 3 sure. Thank you.  
 4 MS. WITHERS: For the benefit of the  
 5 gentleman that just joined us, we are having have a  
 6 question and answer period and we are taking questions  
 7 from the audience.  
 8 THE MODERATOR: Go ahead.  
 9 MR. SPINGLER: You probably can't answer in  
 10 detail, but what is the status of the negotiations between  
 11 the County and the Tribe?  
 12 MR. MARTINEZ: We don't know. We don't  
 13 know because it's strictly between the two of them, and so  
 14 we have not --  
 15 MR. SPINGLER: So something is going to pop  
 16 out sometime hopefully.  
 17 MR. MARTINEZ: It has to come out by  
 18 November.  
 19 MR. SPINGLER: Okay.  
 20 A SPEAKER: As a follow-up to Senator  
 21 Stoddard's comment, the properties will be transferred  
 22 soon, and the county submitted plans to you, potential  
 23 uses. Are those ingrained in stone or are there  
 24 possibilities of change? Does it come -- is the transfer  
 25 with commitments to do as currently proposed?

31-06-19  
(Cont.)

31-07-15

31-08-12

**Comment 31-07-15**

Response:

The comment was addressed during the public hearing. The response is presented in the transcript on the left. Further information was presented by a representative of the County of Los Alamos at the evening session of the Los Alamos Public Hearing. That answer is quoted here.

“... MR. BRUEGGEMAN: At this point the tribal council and the county council have held one joint meeting to talk about a process for the negotiations so we can get to an end point by November of this year. Out of that meeting I was asked to come up with actually a public information plan for the process, and we will be working on that over the next few weeks and bringing it to council for consideration. That aside, we won't be meeting again until May, so this is a time when we're all reading these reports and trying to do our homework.”

**Comment 31-08-12**

Response:

The comment was addressed during the public hearing. The response is presented in the transcript on the left. For additional discussion the reader is referred to Section 4.1.4 in Chapter 4 of the main report for a discussion of global development assumptions.

1 MS. WITHERS: The question is whether or  
2 not the county or the other recipient's plans are carved  
3 in stone or if they're subject to change, and the answer  
4 is that yes, they are, absolutely subject to change. What  
5 they have told us are their contemplated future uses.







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**Comment 31-12-06**

Response:

Comment noted.

1 THE MODERATOR: Sir, let me make sure I got  
2 your question. Your question is why does all the  
3 information we get indicate that homesteaders have no  
4 claim? That's what you're asking?

5 MR. MARTINEZ: I didn't ask. I just made a  
6 comment.

7 THE MODERATOR: Okay. So you don't want an  
8 answer then?

9 MR. MARTINEZ: No. I have enough answers  
10 already.

11 THE MODERATOR: Okay. Thank you. Other  
12 comments or questions?

13 MR. SPINGLER: I would like to make a  
14 comment on behalf of, just for the record, the Pajarito  
15 Group of the Sierra Club, and that would be that we  
16 support the transfer of some of these parcels, in fact  
17 seven of the parcels, but we have concerns over three of  
18 the parcels. And those are TA-74, Rendija Canyon, and  
19 White Rock Y.

20 And I won't go into all the details, but it's  
21 primarily for ecological, cultural reasons. And I would  
22 like that to be part of the record.

23 THE MODERATOR: Let me make sure, you said  
24 you support several of the parcels but you have concerns  
25 three?

31-12-06

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31-12-06  
(Cont.)

1 MR. SPINGLER: Seven. Either one, but  
2 seven. I'm just saying of the ten we are concerned with  
3 three.

4 THE MODERATOR: I just want to make sure.  
5 You got the names, so I won't list them up here.  
6 Other comments or questions?

7 MS. WITHERS: Why don't we go ahead and  
8 close out our question period and go ahead and start  
9 taking comments on the environmental impacts if folks are  
10 agreeable.

11 MR. MARTINEZ: Let me also add that if  
12 there are any questions that any of you would like to talk  
13 to us personally on, you can sure catch us at the break.  
14 We'll be here all day, until nine o'clock. You can catch  
15 us at the breaks in between. But from this point on we  
16 are going to be taking comments on the record form the  
17 Environmental Impact Statement, and they will be addressed  
18 in the final report. You will have an answer in the final  
19 report to your questions, what we did with them, if we did  
20 anything with them. If we didn't, why we didn't. And so  
21 feel free to catch us during the break if we didn't get  
22 all the questions.

23 THE MODERATOR: Let me make sure I'm clear,  
24 if I were someone that already said something, does this  
25 mean I have to restate it as a comment or are these

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1 considered also comments?

2 MS. WITHERS: So far I haven't really heard  
3 specific comments directed at the Environmental Impact  
4 Statement.

5 MR. SPINGLER: Mine was meant as a  
6 comment.

7 MR. MARTINEZ: Okay.

8 MS. WITHERS: Okay. Then we will start  
9 with yours.

10 MR. SPINGLER: All the other ones were  
11 comments. That's a question.

12 THE MODERATOR: I just didn't want anybody  
13 sitting in the audience wondering if they had to restate  
14 something.

15 MR. STODDARD: I would like to have my  
16 question stand as a question if we can.

17 THE MODERATOR: The only reason I'm looking  
18 at you --

19 MS. WITHERS: It's probably a good idea for  
20 the record that you go ahead and make sure that we have  
21 associated your name with the comment.

22 MR. FERGUSON: Elizabeth, just a request  
23 for purposes of those of us who will have to review the  
24 record and make sure the EIS adequately reflects all the  
25 comments. If the gentleman from the Sierra Club plans to

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1 submit detailed comments on reasons why the three tracts  
2 are opposed by his organization, that would be very  
3 helpful. If he doesn't plan to do it in writing, if he  
4 could do it today or follow it up somehow.

5 Right now it doesn't stand as a comment on the  
6 EIS per se. It stands as a comment on the final Record of  
7 Decision. And that may sound like a distinction without a  
8 difference, but, believe me, in terms of how the process  
9 is supposed to play out, that is a distinction. The kind  
10 of comments he has just made, it would essentially be a  
11 comment noted. There is nothing the Department can do in  
12 improving the document based on his opposition to three of  
13 the ten parcels, but if he has specific environmentally-  
14 related comments that go to what the document has said and  
15 thinks it needs to be said differently or in more detail,  
16 then that's helpful.

17 MR. SPINGLER: And we will submit that in  
18 writing.

19 THE MODERATOR: Let me clarify, you want me  
20 to go through and put a C by those things that are true  
21 comments? I'm just not sure.

22 MS. WITHERS: I think --

23 MR. MARTINEZ: What we are going to do is  
24 we is going to submit them in writing.

25 THE MODERATOR: That was only one. There

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**Comment 31-13-19**

## Response:

In addition to the response given during the public hearing that is presented in the transcript on the left, the reader is referred to the responses presented in Document 20 and for Comment 31-06-19 above.

1 was another gentleman, about the Sportsmen's, and I just  
2 didn't want you to end up with something that -- if that  
3 was a comment about the Sportsmen's Club.

4 MR. STODDARD: Yes, in reading the document  
5 it sounds like it's a done deal, Los Alamos Sportsmen's  
6 Club is no longer. And that's my principal concern.

7 THE MODERATOR: And I guess the only thing,  
8 to follow up on your point, is that specific enough, his  
9 comment the way he said it, not necessarily the way I  
10 wrote it, for you to be able to act on that or does he  
11 need to submit something in writing?

12 MR. FERGUSON: Personally what I heard I  
13 think is sufficient to be responded to. I think it goes  
14 largely to the description of the process as opposed to  
15 the impacts of the transfer, but I think that can be  
16 connoted in term of the status of existing leases and the  
17 clarifying that either the Pueblo or the County will  
18 essentially be free to act on the status of any existing  
19 encumbrance when they receive the parcel.

20 MR. STODDARD: That is the essence of it.  
21 I am a little concerned that anybody reading it would  
22 think a decision has already been made that the  
23 Sportsmen's Club will no longer be, and I don't think that  
24 is the intention of the County, if they become the  
25 ultimate owner, to abolish the Sportsmen's Club at all,

31-13-19

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1 and our discussions with them bear that out. That is also  
 2 part of the Comprehensive Plan of 1987.  
 3 THE MODERATOR: I think we had a question  
 4 here.  
 5 A SPEAKER: I have a comment to make. I  
 6 want it known that the Pajarito Plateau Homesteaders are  
 7 claimants of some of the land.  
 8 THE MODERATOR: Let me make sure I got it.  
 9 Say it again, sir.  
 10 A SPEAKER: I want it known that the  
 11 Pajarito Plateau Homesteaders are claimants.  
 12 THE MODERATOR: Okay. Any other comments?  
 13 A SPEAKER: That's it.  
 14 A SPEAKER: A question. Is there a  
 15 schedule of activity and time frame for completion and all  
 16 the milestones to be completed before the EIS is issued  
 17 that is available to us, a written document that shows  
 18 that schedule?  
 19 MR. MARTINEZ: There is one in the public  
 20 survey.  
 21 MS. WITHERS: I have a schedule. It's not  
 22 necessarily published. I would be happy to furnish that  
 23 to you.  
 24 A SPEAKER: What is your target completion  
 25 date.

31-13-19  
(Cont.)

31-14-22

31-15-15

**Comment 31-14-22**

Response:

Comment noted. The reader is referred to General Issue 7, Homesteaders Association Claims, in Chapter 2 of this appendix.

**Comment 31-15-15**

Response:

The comment was addressed during the public hearing. The response is presented in the transcript on the left. In addition, the reader is referred to Section 1.1.3 in Chapter 1 of the main report, which presents the timeline for the overall conveyance and transfer process.

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**Comment 31-16-03**

## Response:

The comment was addressed during the public hearing. The response is presented in the transcript on the left. In addition, this issue is discussed in more detail in General Issue 3, Basis for DOE's Decisions, in Chapter 2 of this appendix.

1 MS. WITHERS: The target completion date  
2 for furnishing the Final Environmental Impact Statement is  
3 August of '99. I would plan to -- our comment period ends  
4 on April 12th, and then we will be taking the comments  
5 that we have received and actually start making changes to  
6 the document as appropriate, and turn around and plan to  
7 have published, or printed and issued, the Final Draft  
8 Document in the first part of August.

9 A SPEAKER: Do you have a mailing list that  
10 you have begun to distribute to people like this?

11 MS. WITHERS: Yes, we do, and if you would  
12 like to add your name to the mailing list, catch me after  
13 this and give me your name and I'll be happy to add it to  
14 the list, or you can call the 1-800 number that is posted  
15 on the wall up there and give me your name and address and  
16 I'll add your address to the list. That would be super.

17 THE MODERATOR: Thank you for leaning into  
18 the mike. I think it's easier for people to hear if you  
19 are just an inch or two away from the mike so people can  
20 hear. Any other comments, questions?

21 MR. FERGUSON: This is Steve Ferguson  
22 again. I'm with DOE headquarters. I've spoken a little  
23 bit already. I think I need to clarify the answer  
24 Elizabeth gave to the gentleman from the Sierra Club's  
25 question about the viability of the no action

31-15-15  
(Cont.)

31-16-03

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31-16-03  
(Cont.)

1 alternative. I think it's incorrect if people have the  
2 impression the Department has very much discretion in the  
3 decision on whether to convey or transfer these parcels.  
4 That discretion largely rests in whether the criteria laid  
5 out in the statute that was described earlier are met or  
6 not. If those criteria are met, then the statute says the  
7 Department shall convey.  
8 Now, having said that, as Elizabeth also pointed  
9 out, the process is supposed to be interactive with  
10 congress, in the sense that we have to provide a plan to  
11 them for how the transfer or transfers would be made, and  
12 that plan would be based on the information contained in  
13 the Environmental Impact Statement and the Environmental  
14 Restoration Report, among other pieces of information.  
15 So I think it's fair to say that there is  
16 opportunity for the Department's discretion to be changed,  
17 but congress is the vehicle for that discretion to be  
18 altered at this point on either a total ten-parcel basis  
19 or a parcel-by-parcel basis. We are limited by what the  
20 statute gives us in the way of discretion.  
21 THE MODERATOR: Thank you. Any other  
22 comments?  
23 MR. SPINGLER: I think the answer was no.  
24 Is that right?  
25 THE MODERATOR: Thank you for clarifying.

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1 MR. SPINGLER: My question was is no action  
2 a viable alternative and I think you are answering no,  
3 it's not a viable alternative.  
4 MR. FERGUSON: It depends on whether the  
5 criteria are met or not.  
6 MR. SPINGLER: Right, but --  
7 MR. FERGUSON: I think "no" is too  
8 simplistic an answer as well. The answer is it depends  
9 and that's what the process is all about.  
10 THE MODERATOR: So if the criteria are not  
11 met then the answer is no. If they're met, the answer is  
12 yes. I just want --  
13 MR. SPINGLER: I can't imagine the criteria  
14 that wouldn't be met. As a for instance, how would the  
15 answer ever be, no, we're not going to transfer, based on  
16 the criteria?  
17 MS. WITHERS: If we couldn't  
18 environmentally clean up the tract would be one way. Also  
19 if we recognized a mission support need for the piece of  
20 property, then that would be another way.  
21 MR. MARTINEZ: Or if the County and the  
22 Pueblo did not agree, then it would not be transferred.  
23 THE MODERATOR: I think that helped other  
24 people as well. Thank you for clarifying. Was there a  
25 question somewhere here? Comment? Yes.

31-16-03  
(Cont.)

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1 MR. GONZALES: I would like to address a  
2 question to the gentleman over there. Sir, are you with  
3 the Sierra Club?  
4 MR. SPINGLER: Yes, sir.  
5 MR. MR. GONZALES: Do you know about the  
6 Earth Justice Legal Defense Fund?  
7 MR. SPINGLER: No.  
8 MR. GONZALES: It's part of -- used to be  
9 Sierra Club. The offices are in San Francisco. And I  
10 have been --  
11 MR. SPINGLER: I'm just part of a little  
12 group, the Pajarito Group with the Sierra Club.  
13 MR. GONZALES: They used to handle  
14 everything, but this Earth Justice Legal Defense Fund is  
15 different now. And they kind of promised to help us but  
16 they haven't yet.  
17 MR. SPINGLER: I'm not familiar with that.  
18 THE MODERATOR: That wasn't a comment for  
19 the record, you were just clarifying?  
20 MR. GONZALES: Yes.  
21 THE MODERATOR: Any other comments?  
22 MR. MARTINEZ: Why don't we take a  
23 five-minute break and kind of mull over what we've heard  
24 so far, and then we will reconvene and continue taking  
25 comments. That will give you a chance to refresh

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1 yourselves and have some more comments.  
2 THE MODERATOR: Go to the environmental  
3 restoration open house next door. So we will check in  
4 five minutes if there are more comments.  
5 (There was a brief recess.)  
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**Pojoaque Public Hearing (Afternoon Session)**  
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1 THE MODERATOR: Let's reconvene. The  
2 situation is, there were no comments. We waited for a  
3 while before we took a break and there were no additional  
4 comments, but we want to make sure, if anyone came in  
5 late, or if they had anything they thought of during the  
6 break. Are there other comments about the Draft  
7 Environmental Impact Statement you want to say here?  
8 Remember you can also write them on the card,  
9 you can call this number, you can e-mail them, but if  
10 there is anything you want to say here we want to make  
11 sure we have at least asked that question again.  
12 Not hearing any, waiting I think five or six  
13 seconds there, I'm going to -- Dennis, did you have  
14 anything to add?  
15 MR. MARTINEZ: Not for me.  
16 MS. WITHERS: No, I don't believe so. Why  
17 don't we convene then in about 30 minutes. We'll again  
18 reconvene and ask the question again, and perhaps if  
19 anyone new joins us then we can proceed from there.  
20 THE MODERATOR: So the decision was we will  
21 take a break for about 30 minutes. If someone new shows  
22 up we will reconvene. We will convene anyway at that  
23 point to see if there are any comments. So that would be  
24 at 3:45 approximately. And we will see if there are  
25 additional comments.

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1 Thank you very much to those of you present.  
2 (There was a brief recess.)  
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## Comment 31-17-09

## Response:

The commentor referred to the Bureau of Indian Affairs, U.S. Department of the Interior (DOI) regulation at 25 Code of Federal Regulations (CFR) Part 151, Land Acquisitions. This regulation sets forth policies and procedures that apply to the DOI when it acquires land in trust for Native American tribes and individuals. The DOE intends to work not only with the DOI, but also with environmental regulatory authorities, to identify the degree of environmental restoration or remediation, if any, that is required for each parcel of land that may be transferred. Under Public Law 105-119, the DOE may not transfer any parcel that requires environmental restoration or remediation before such remediation or restoration, to the maximum extent practicable to meet at least one of the land uses identified by Public Law 105-119, has occurred.

31-17-09

1 THE MODERATOR: All right. We said we  
2 would reconvene in a half hour and it's a little past  
3 that, 10 to 4:00. Those of you who were not here earlier,  
4 we began at two as scheduled and we heard some  
5 presentations about the basic background information. We  
6 also took some comments, took a couple of breaks, and we  
7 have one person I believe signed up to make another  
8 comment, so I want to reconvene now.  
9 The intent of this, of course, is to input to  
10 the Draft Environmental Impact Statement and to get any  
11 comments about the Environmental Impact Statement. So, if  
12 there is anyone -- I believe there was one person signed  
13 up.  
14 Yes, sir.  
15 MR. TAFOYA: My name is Darrell Tafoya. I  
16 work for the Bureau of Indian Affairs. I'm the realty  
17 officer. My comments are under the remediation program,  
18 the cleanup. And we have regulations under CFR 25-151 how  
19 we accept land, how it needs to be done. And under other  
20 circumstances when we get together with acquiring  
21 property, we always ask for a report, environmental, they  
22 call it a Phase 1-EA, to check and see if everything is up  
23 to par, and if it isn't, then you go to Phase 2. And then  
24 if still it isn't, you go to 3. But the Bureau will not  
25 take it if it's not clean to the highest.

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1       What I'm talking about now is that I understand  
2 that it will be clean to different areas of usage, but the  
3 Bureau needs for it to be at the highest, meaning what the  
4 state regulations are. And I think it is residential.  
5 And any of the land that is going to be transferred to the  
6 Bureau for Ildefonso, it needs to be to the highest,  
7 meaning whatever the state regulation is.

8       Because if we accept it lower than that, the  
9 liability issue is still on DOE, but the liability also  
10 falls on the Bureau of Indian Affairs. And that's why I  
11 made this comment. And I wanted to make this comment  
12 before. I have been to your meetings and advised you of  
13 the same thing, but I wanted to make this comment so you  
14 will be able to put it in there, because I feel if we want  
15 something done right, instead of throwing the ball back  
16 and forth, what we might be doing, we might as well do it  
17 right now, so when we get to the point where we are going  
18 to transfer it it is satisfactory with the Bureau and  
19 DOE.

20       That's all I have to say.

21       THE MODERATOR: Let me make sure, the  
22 Public Law number again, or the regulation?

23       MR. TAFOYA: CFR 25-151.

24       THE MODERATOR: 25-151, if I heard  
25 correctly. We have someone here taking down your actual

31-17-09  
(Cont.)

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31-17-09  
(Cont.)

1 words, but I want to be sure that people in the audience  
2 heard. Bureau of Indiana Affairs, you said you have a  
3 process with three phases. What your point was, for this  
4 land to be transferred it needs to be cleaned up to the  
5 highest level because there are liability implications.

6 Okay. Any other comments? Not hearing any,  
7 then, Dennis, how do you want to handle it? It's almost  
8 4:00.

9 MS. WITHERS: Why don't we reconvene at  
10 4:30 and we'll ask once again if there are any other folks  
11 that have comments.

12 THE MODERATOR: Okay. Thank you very  
13 much.

14 (There was a brief recess.)  
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Final CT EIS

**Pojoaque Public Hearing (Afternoon Session)**  
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1 THE MODERATOR: Let me reconvene this  
2 comment session. All I want to do is make sure is we've  
3 done a public announcement, that if there is anyone in the  
4 room who has a comment to make about the Draft  
5 Environmental Impact Statement, please let us know. Not  
6 hearing anything, after a good five seconds, I will assume  
7 there is no comment.

8 And there will be another session from six to  
9 nine tonight, the same place, so if there are comments  
10 please come then. Otherwise, Elizabeth, do you want to  
11 adjourn?

12 MS. WITHERS: Why don't we adjourn the  
13 meeting.

14 THE MODERATOR: We will adjourn this  
15 afternoon session now. It's 4:30. Thank you.

16 (The meeting was adjourned at 4:30 p.m.)  
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**Pojoaque Public Hearing (Afternoon Session)**  
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COUNTY OF BERNALILLO  
STATE OF NEW MEXICO

REPORTER'S CERTIFICATE

I, the undersigned Court Reporter and Notary  
Public, HEREBY CERTIFY that I reported in stenographic  
shorthand the proceedings set forth herein, and the  
foregoing is a true and correct transcript of the  
proceeding to the best of my ability.

I FURTHER CERTIFY that I am neither employed by  
nor related to any of the parties or attorneys in this  
case, and that I have no interest whatsoever in the final  
disposition of this case in any court.

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BARBARA K. HARRIS, RPR-CM  
Certified Court Reporter #114  
My Commission Expires: 12/31/99

October 1999

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